

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CUONG HUY DAO,
Petitioner,

v.

J. ROBERTSON,
Respondent.

Case No. [19-cv-01074-WHO](#) (PR)

ORDER STAYING ACTION

Petitioner Cuong Huy Dao's "Request for Postponement and Withdrawal of Federal Habeas Corpus" is construed as a motion to stay habeas proceedings so that Dao can exhaust claims in state court. (Dkt. No. 23.) So construed, the motion is GRANTED. This federal habeas action is STAYED under *Rhines v. Webber*, 544 U.S. 269 (2005). Nothing further will take place in this suit until the Court decides further action is appropriate, or until Dao meets the conditions for dissolving the stay.

Dao is required to file a petition containing his unexhausted claims in the California Supreme Court within 90 days from the date of this order. Within 30 days after obtaining a decision from the state supreme court on his unexhausted claims, Dao must file in this Court a motion to dissolve the stay and to reopen federal habeas proceedings.

Any motion to reopen must contain an amended petition on this Court's form.

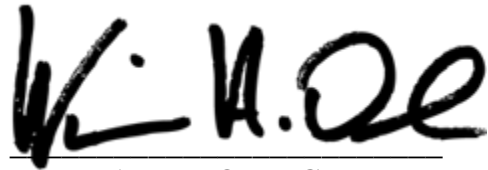
The amended petition must include the caption and civil case number used in this order

(19-01074 WHO (PR)) and the words FIRST AMENDED PETITION on the first page. Because an amended petition completely replaces the previous petitions, Dao must include in his first amended petition all the claims he wishes to present. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992). He may not incorporate material from a prior petition by reference.

The Clerk shall ADMINISTRATIVELY CLOSE the file pending the stay of this action.

IT IS SO ORDERED.

Dated: July 9, 2020

A handwritten signature in black ink, appearing to read 'W. H. Orrick', written over a horizontal line.

WILLIAM H. ORRICK
United States District Judge